



Senate

General Assembly

February Session, 2014

File No. 277

Senate Bill No. 277

Senate, April 2, 2014

The Committee on Insurance and Real Estate reported through SEN. CRISCO of the 17th Dist., Chairperson of the Committee on the part of the Senate, that the bill ought to pass.

AN ACT CONCERNING THE ISSUANCE OF CLOSING PROTECTION LETTERS.

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. Section 38a-404 of the general statutes is repealed and the
2 following is substituted in lieu thereof (*Effective October 1, 2014*):

3 (a) No person subject to sections 38a-400 to 38a-425, inclusive, shall
4 engage in activities prohibited to corporations under section 38a-45,
5 except that such persons may guarantee their obligations and the
6 obligations of their agents and their affiliates in the normal course of
7 business by issuing closing protection letters.

8 (b) A closing protection letter issued by a title insurer shall be
9 required for any loan insurance policy issued that insures a lender's
10 interest in a residential building containing four units or less.

11 (c) Nothing in this section shall prohibit a title insurer from issuing a
12 closing protection letter for any loan insurance policy issued that

13 insures a lender's interest in any other type of residential or
14 commercial real property.

15 (d) A title insurer may impose a fee, approved by the commissioner,
16 for the issuance of a closing protection letter.

17 Sec. 2. Section 38a-415 of the general statutes is repealed and the
18 following is substituted in lieu thereof (*Effective October 1, 2014*):

19 (a) Nothing in sections 38a-400 to 38a-425, inclusive, shall be
20 construed as prohibiting the division of premiums and charges
21 between or among a title insurer and its title agent, two or more title
22 insurers and their title agents, two or more title insurers, one or more
23 title insurers and one or more title agents, or two or more title agents,
24 provided such division of premiums and charges does not constitute
25 (1) an unlawful rebate or inducement under the provisions of said
26 sections or (2) payment of a forwarding fee or finder's fee.

27 (b) Notwithstanding subsection (a) of this section, (1) for any title
28 insurance policy issued after October 1, 1990, no title insurer shall pay
29 to any title insurance agent or permit such agent to retain any amount
30 exceeding sixty per cent of the gross premium for any policy of the title
31 insurer issued by such agent. The maximum commission to a title
32 insurance agent shall not be increased directly or indirectly by an
33 insurer providing anything of value, including services, to an agent for
34 less than the actual cost or fair market value, and (2) for any closing
35 protection letter issued on or after October 1, 2014, for which a title
36 insurer receives a fee pursuant to subsection (d) of section 38a-404, as
37 amended by this act, no title insurer shall pay to any title insurance
38 agent or permit such agent to retain any amount of such fee.

39 Sec. 3. Section 38a-421 of the general statutes is repealed and the
40 following is substituted in lieu thereof (*Effective October 1, 2014*):

41 (a) A title insurer shall file with the commissioner all forms it
42 proposes to use in this state, including (1) title insurance policies,
43 including standard form endorsements, [and] (2) commitments,

44 binders or any other reports issued prior to the issuance of a title
45 insurance policy, and (3) closing protection letters. If the commissioner
46 finds in [his] the commissioner's review of a filing that it does not
47 violate section 38a-422, [he] the commissioner shall approve the form
48 within thirty days of filing. Prior to such approval, the commissioner
49 may conduct public hearings with respect to the filing. Filings that the
50 commissioner has failed to approve or disapprove within thirty days
51 of filing shall be deemed approved. Upon notice to the insurer, the
52 period for review of a form filing may be extended for an additional
53 thirty days.

54 (b) A title insurer need not file reinsurance contracts and
55 agreements.

56 (c) No title insurer may issue, directly or through a title agent, any
57 policy after October 1, 1990, unless the policy form has been approved
58 pursuant to this section. The commissioner may provide by regulation
59 for interim use of forms in effect prior to October 1, 1990.

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>October 1, 2014</i>	38a-404
Sec. 2	<i>October 1, 2014</i>	38a-415
Sec. 3	<i>October 1, 2014</i>	38a-421

INS *Joint Favorable*

The following Fiscal Impact Statement and Bill Analysis are prepared for the benefit of the members of the General Assembly, solely for purposes of information, summarization and explanation and do not represent the intent of the General Assembly or either chamber thereof for any purpose. In general, fiscal impacts are based upon a variety of informational sources, including the analyst's professional knowledge. Whenever applicable, agency data is consulted as part of the analysis, however final products do not necessarily reflect an assessment from any specific department.

OFA Fiscal Note***State Impact:*** None***Municipal Impact:*** None***Explanation***

The bill makes several adjustments concerning closing protection letters. As the bill concerns private insurance transactions, there is no fiscal impact.

The Out Years***State Impact:*** None***Municipal Impact:*** None

OLR Bill Analysis**SB 277****AN ACT CONCERNING THE ISSUANCE OF CLOSING PROTECTION LETTERS.****SUMMARY:**

This bill requires title insurers to issue closing protection letters (CPLs) for any loan insurance policy insuring a lender's interest on a one-to-four unit residential building, and allows them to issue CPLs for other types of residential or commercial property. In practice, a CPL is a contract between a title insurer and a real estate buyer, borrower, lessee, or lender indemnifying against any actual loss of settlement or closing funds caused by such things as fraud, theft, and misappropriation.

By law, a title insurer may issue a CPL to guarantee the obligations of its agents in the normal course of business. The bill expands the purpose of a CPL to include guaranteeing the title insurer's obligations and the obligations of its agents and affiliates.

The bill allows title insurers to charge a fee for issuing a CPL, but the insurance commissioner must approve the fee. It prohibits a title insurer from sharing a CPL fee with a title insurance agent.

The bill also requires title insurers to file CPLs with the insurance commissioner for his review and approval. The commissioner must approve a CPL if it (1) is logical, clearly arranged, and understandable to people of normal intelligence without insurance or legal knowledge or training; (2) does not contain inconsistent, ambiguous, or misleading clauses, exceptions, or conditions deceptively affecting the risk assumed; (3) does not contain misleading titles, headings, or other indications of coverage; (4) is legibly printed or reproduced; and (5) otherwise complies with the Connecticut Title Insurance Act.

EFFECTIVE DATE: October 1, 2014

COMMITTEE ACTION

Insurance and Real Estate Committee

Joint Favorable

Yea 10 Nay 9 (03/20/2014)